



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,975	07/15/2004	Jean-Marie Laborbe	3714652-00491	3409
29157	7590	10/09/2009	EXAMINER	
K&L Gates LLP			THAKUR, VIREN A	
P.O. Box 1135				
CHICAGO, IL 60690				
			ART UNIT	PAPER NUMBER
			1794	
			NOTIFICATION DATE	DELIVERY MODE
			10/09/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

chicago.patents@klgates.com

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/501,975</p>	<p>Applicant(s) LABORBE ET AL.</p>	
	<p>Examiner VIREN THAKUR</p>	<p>Art Unit 1794</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 September 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 10-12, 14, 16 and 18-24.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Steve Weinstein/
Primary Examiner, Art Unit 1794

Continuation of 11. does NOT place the application in condition for allowance because: Although applicants have amended the claims to recite that the food composition is an animal food composition and that the reference to Prasad does not disclose or suggest that its fish or meat products are animal food compositions nevertheless, the meat products can indeed be considered animal food compositions. Furthermore, applicants have not provided any particular definition limiting what can be considered an animal food composition.

ON page 7 of the response, applicants urge that the use of components such as garlic, onion and spices make the compositions of Prasad unsuitable for animals. This argument is not persuasive and is only applicants opinion not substantiated by any evidence. In any case, it is noted that it would have been obvious to one having ordinary skill in the art that marinated meat could be used to feed animals.

Applicants urge on page 7 that although Coppage and Palmer disclose "animal food compositions those references fail to disclose an animal food composition having a coating for obtaining a roasted appearance after cooking." It is noted however, that these references have only been relied on to teach that dried, powdered blood has been conventionally employed in the art for the purpose of providing a particular degree of color to the food product. The primary reference to Prasad already teaches imparting a roasted appearance to the food product.

Applicants urge on pages 8-9 that the references fail to disclose or suggest a coating for obtaining a roasted appearance after cooking, wherein the coating comprises at least one of a source of pigments or colorants selected from the group consisting of a powdered blood, a frozen blood and combinations thereof. It is noted however, that Ziegler clearly recites "dried blood pigment preparation." Thus Ziegler teaches that dried blood provides pigmentation and even uses the "dried blood base" as a coloring composition (column 1, lines 13-16). Coppage teaches that dried blood has been conventionally employed in food compositions and Palmer teaches using dried blood as part of the coating composition. Therefore Palmer teaches coating compositions that comprise dried blood which are then applied around a core food material. Therefore in view of the art taken as a whole, dried/powdered blood has indeed been a conventional coloring agent and since the art already teaches achieving a particular desired appearance to the food, to employ dried powdered blood would have been obvious for its art recognized an applicants' intended function of achieving a particular appearance to the food product..